



East Contra Costa Fire Protection District

Brian Helmick, Fire Chief

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November 20, 2020

Director Gustavo Velasquez
California Department of Housing and Community Development
2020 West El Camino Ave.
Sacramento, CA 95833
Submitted via email to: publiclands@hcd.ca.gov

RE: Surplus Land Act Draft Guidelines [As Issued November 13, 2020]

Dear Director Velasquez:

On behalf of the East Contra Costa Fire Protection District (ECCFPD), I am submitting this letter in response to the California Department of Housing and Community Development (HCD) request for public comment on draft guidelines for the Surplus Land Act (SLA). **Our district** is respectfully opposed to the draft guidelines unless they are amended to address serious concerns.

ECCFPD is a fire protection district organized under the Fire Protection District Law of 1987. The District provides firefighting and prevention, emergency medical services (basic life support), hazardous waste response, and other services relating to the protection of lives and property. The District serves 249 square miles in eastern Contra Costa County including the cities of Brentwood and Oakley, and the communities of Discovery Bay, Bethel Island, Knightsen, Byron, Marsh Creek, and Morgan Territory, which house approximately 128,000 residents.

The draft guidelines were presumably promulgated to assist HCD with the implementation of AB 1486 (Ting), which mandates local agencies adhere to certain requirements when disposing surplus land. Specifically, ECCFPD is opposed to the guidelines as currently drafted because:

1. **Section 102(i)** of the draft guidelines provides an inaccurate definition for “disposition of surplus land” that has no basis under the law. HCD fails to provide any support for the conclusion that “disposition of surplus land” includes sale or lease of local agency-owned land formally declared surplus:
 - a. Not a single statute referenced by the guidelines defines “dispose” or “disposition” nor addresses whether an agency leasing surplus land for non-housing purposes constitutes a disposition under the SLA.
 - b. The plain text of the SLA, Cal. Government Code §§ 54220 – 54234, does not define “dispose” or “disposition” to include leasing.
 - c. We can find no precedent or example of any California Appellate Court making the determination that a public agency leasing surplus land is a “disposition” of that surplus land.
 - d. The California Legislature excluded leasing from the definition of “dispose,” by amending AB 1486 in the legislative process to specifically remove any use of the phrase “lease” or “leasing” in conjunction with disposition of surplus land and removed any definition provided for “dispose.”



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2. **Section 103(b)(3)** of the draft guidelines, covering surplus land exemptions, fails to include a specific classification for exempt surplus land found in the SLA pursuant to Government Code section 54221(f)(1)(J), which plainly states that real property that is used by a district for agency's use expressly authorized in 54221(c) is exempt surplus land. This omission must be corrected by revising the HCD guidelines to include a discussion of the exempt surplus land classification permitted under section 54221(f)(1)(J).
3. **Section 400(e)** of the draft guidelines, requiring an agency to provide HCD with written findings and a "notice of exemption determination" at least 30 days prior to disposition of exempt surplus land, has no basis under the SLA.

Under the draft guidelines, attempting to lease land in support of an agency's governmental function would trigger the requirements for the disposal of surplus land. The guidelines would also make it more difficult to protect an agency's land for critical governmental use and planning purposes.

Our opposition is not a challenge to the demand for affordable housing, but rather a validation of the need for local flexibility when it comes to proper governmental land use management.

For these reasons, ECCFPD respectfully requests HCD amend the SLA Draft Guidelines to correct the aforementioned issues.

Sincerely,

DocuSigned by:

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Brian Helmick
Fire Chief
East Contra Costa Fire Protection District

CC: Alyssa Silhi, Legislative Representative, California Special Districts Association